

SENATE BILL

No. 25

Introduced by Committee on Budget and Fiscal Review

April 30, 2003

An act to amend Sections 1103 and 1103.2 of the Civil Code, to amend Section 8589.4, and to repeal Section 8589.5, of the Government Code, and to amend Sections 13601 and 13602 of the Penal Code, relating to public safety, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 25, as introduced, Committee on Budget and Fiscal Review. Public safety.

(1) The California Emergency Services Act requires, with specified exceptions, local governmental organizations, utilities, or other owners of dams, to prepare and submit to the Office of Emergency Services inundation maps showing the areas of potential flooding in the event of sudden or total failure of any dam, the partial or total failure of which the office determines, after consultation with the Department of Water Resources, would result in death or personal injury. Based on a review of the maps or, under certain circumstances, on information gained by an onsite inspection and consultation with the affected local jurisdiction, the office is required to designate areas within which death or personal injury would, in its determination, result from the partial or total failure of a dam. The appropriate public safety agencies of the local jurisdictions are required to adopt emergency procedures for the evacuation and control of populated areas below those dams, subject to review by the office.

[1] Corrected 5-1-03—See last page.

This bill would repeal these provisions, and make various conforming changes.

(2) Existing law establishes the Commission on Correctional Peace Officer Standards and Training, and charges it with various duties in connection with the training of correctional peace officers in both the Department of Corrections and the Department of the Youth Authority. Existing law requires correctional peace officers of the Department of Corrections and the Department of the Youth Authority to complete training for supervisory positions, and provides for stress management training.

This bill would provide that those training provisions only apply to correctional peace officers in the Department of Corrections.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1103 of the Civil Code is amended to
2 read:

3 1103. (a) Except as provided in Section 1103.1, this article
4 applies to any transfer by sale, exchange, installment land sale
5 contract, as defined in Section 2985, lease with an option to
6 purchase, any other option to purchase, or ground lease coupled
7 with improvements, of any real property described in subdivision
8 (c), or residential stock cooperative, improved with or consisting
9 of not less than one nor more than four dwelling units.

10 (b) Except as provided in Section 1103.1, this article shall
11 apply to a resale transaction entered into on or after January 1,
12 2000, for a manufactured home, as defined in Section 18007 of the
13 Health and Safety Code, that is classified as personal property
14 intended for use as a residence, or a mobilehome, as defined in
15 Section 18008 of the Health and Safety Code, that is classified as
16 personal property intended for use as a residence, if the real
17 property on which the manufactured home or mobilehome is
18 located is real property described in subdivision (c).

19 (c) This article shall apply to the transactions described in
20 subdivisions (a) and (b) only if the transferor or his or her agent are



required by one or more of the following to disclose the property's location within a hazard zone:

(1) A person who is acting as an agent for a transferor of real property that is located within a special flood hazard area (any type Zone "A" or "V") designated by the Federal Emergency Management Agency, or the transferor if he or she is acting without an agent, shall disclose to any prospective transferee the fact that the property is located within a special flood hazard area if either:

(A) The transferor, or the transferor's agent, has actual knowledge that the property is within a special flood hazard area.

(B) The local jurisdiction has compiled a list, by parcel, of properties that are within the special flood hazard area and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the parcel list.

(2) A person who is acting as an agent for a transferor of real property that is located within an area of potential flooding, ~~designated pursuant to Section 8589.5 of the Government Code,~~ or the transferor if he or she is acting without an agent, shall disclose to any prospective transferee the fact that the property is located within an area of potential flooding if either:

(A) The transferor, or the transferor's agent, has actual knowledge that the property is within an inundation area.

(B) The local jurisdiction has compiled a list, by parcel, of properties that are within the inundation area and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the parcel list.

(3) A transferor of real property that is located within a very high fire hazard severity zone, designated pursuant to Section 51178 of the Public Resources Code, shall disclose to any prospective transferee the fact that the property is located within a very high fire hazard severity zone and is subject to the requirements of Section 51182 if either:

(A) The transferor, or the transferor's agent, has actual knowledge that the property is within a very high fire hazard severity zone.

(B) A map that includes the property has been provided to the local agency pursuant to Section 51178 of the Public Resources

1 Code and a notice has been posted at the offices of the county
2 recorder, county assessor, and county planning agency that
3 identifies the location of the map and any information regarding
4 changes to the map received by the local agency.

5 (4) A person who is acting as an agent for a transferor of real
6 property that is located within an earthquake fault zone, designated
7 pursuant to Section 2622 of the Public Resources Code, or the
8 transferor if he or she is acting without an agent, shall disclose to
9 any prospective transferee the fact that the property is located
10 within a delineated earthquake fault zone if either:

11 (A) The transferor, or the transferor's agent, has actual
12 knowledge that the property is within a delineated earthquake fault
13 zone.

14 (B) A map that includes the property has been provided to the
15 city or county pursuant to Section 2622 of the Public Resources
16 Code and a notice has been posted at the offices of the county
17 recorder, county assessor, and county planning agency that
18 identifies the location of the map and any information regarding
19 changes to the map received by the county.

20 (5) A person who is acting as an agent for a transferor of real
21 property that is located within a seismic hazard zone, designated
22 pursuant to Section 2696 of the Public Resources Code, or the
23 transferor if he or she is acting without an agent, shall disclose to
24 any prospective transferee the fact that the property is located
25 within a seismic hazard zone if either:

26 (A) The transferor, or the transferor's agent, has actual
27 knowledge that the property is within a seismic hazard zone.

28 (B) A map that includes the property has been provided to the
29 city or county pursuant to Section 2696 of the Public Resources
30 Code and a notice has been posted at the offices of the county
31 recorder, county assessor, and county planning agency that
32 identifies the location of the map and any information regarding
33 changes to the map received by the county.

34 (6) A transferor of real property that is located within a state
35 responsibility area determined by the board, pursuant to Section
36 4125 of the Public Resources Code, shall disclose to any
37 prospective transferee the fact that the property is located within
38 a wildland area that may contain substantial forest fire risks and
39 hazards and is subject to the requirements of Section 4291 if either:

(A) The transferor, or the transferor's agent, has actual knowledge that the property is within a wildland fire zone.

(B) A map that includes the property has been provided to the city or county pursuant to Section 4125 of the Public Resources Code and a notice has been posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the map and any information regarding changes to the map received by the county.

(d) Any waiver of the requirements of this article is void as against public policy.

SEC. 2. Section 1103.2 of the Civil Code is amended to read:

1103.2. (a) The disclosures required by this article are set forth in, and shall be made on a copy of, the following Natural Hazard Disclosure Statement:

NATURAL HAZARD DISCLOSURE STATEMENT

This statement applies to the following property: _____

The transferor and his or her agent(s) disclose the following information with the knowledge that even though this is not a warranty, prospective transferees may rely on this information in deciding whether and on what terms to purchase the subject property. Transferor hereby authorizes any agent(s) representing any principal(s) in this action to provide a copy of this statement to any person or entity in connection with any actual or anticipated sale of the property.

The following are representations made by the transferor and his or her agent(s) based on their knowledge and maps drawn by the state and federal governments. This information is a disclosure and is not intended to be part of any contract between the transferee and the transferor.

THIS REAL PROPERTY LIES WITHIN THE FOLLOWING HAZARDOUS AREA(S):

A SPECIAL FLOOD HAZARD AREA (Any type Zone "A" or "V") designated by the Federal Emergency Management Agency.

1 Yes ____ No ____ Do not know and
2 information not
3 available from local
4 jurisdiction ____
5

6 AN AREA OF POTENTIAL FLOODING shown on a dam failure
7 inundation map pursuant to Section 8589.5 of the Government Code.
8

9 Yes ____ No ____ Do not know and
10 information not
11 available from local
12 jurisdiction ____
13

14 A VERY HIGH FIRE HAZARD SEVERITY ZONE pursuant to
15 Section 51178 or 51179 of the Government Code. The owner of this
16 property is subject to the maintenance requirements of Section 51182
17 of the Government Code.
18

19 Yes ____ No ____
20

21 A WILDLAND AREA THAT MAY CONTAIN SUBSTANTIAL
22 FOREST FIRE RISKS AND HAZARDS pursuant to Section 4125
23 of the Public Resources Code. The owner of this property is subject
24 to the maintenance requirements of Section 4291 of the Public
25 Resources Code. Additionally, it is not the state's responsibility to
26 provide fire protection services to any building or structure located
27 within the wildlands unless the Department of Forestry and Fire
28 Protection has entered into a cooperative agreement with a local
29 agency for those purposes pursuant to Section 4142 of the Public
30 Resources Code.
31

32 Yes ____ No ____
33

34 AN EARTHQUAKE FAULT ZONE pursuant to Section 2622 of the
35 Public Resources Code.
36

37 Yes ____ No ____
38

1 A SEISMIC HAZARD ZONE pursuant to Section 2696 of the Public
2 Resources Code.

3
4 Yes (Landslide Zone) _____ Yes (Liquefaction Zone) _____
5 No _____ Map not yet released by
6 state _____
7

8 THESE HAZARDS MAY LIMIT YOUR ABILITY TO DEVELOP THE
9 REAL PROPERTY, TO OBTAIN INSURANCE, OR TO RECEIVE
10 ASSISTANCE AFTER A DISASTER.

11
12 THE MAPS ON WHICH THESE DISCLOSURES ARE BASED
13 ESTIMATE WHERE NATURAL HAZARDS EXIST. THEY ARE NOT
14 DEFINITIVE INDICATORS OF WHETHER OR NOT A PROPERTY
15 WILL BE AFFECTED BY A NATURAL DISASTER. TRANSFEREE(S)
16 AND TRANSFEROR(S) MAY WISH TO OBTAIN PROFESSIONAL
17 ADVICE REGARDING THOSE HAZARDS AND OTHER HAZARDS
18 THAT MAY AFFECT THE PROPERTY.

19
20 Transferor represents that the information herein is true and correct to the
21 best of the transferor's knowledge as of the date signed by the transferor.

22
23 Signature of Transferor _____ Date _____
24

25 Agent represents that the information herein is true and correct to the best
26 of the agent's knowledge as of the date signed by the agent.

27
28 Signature of Agent _____ Date _____

29 Signature of Agent _____ Date _____
30

31 Transferee represents that he or she has read and understands this document.

32
33 Signature of Transferee _____ Date _____
34

35 (b) If an earthquake fault zone, seismic hazard zone, very high
36 fire hazard severity zone, or wildland fire area map or
37 accompanying information is not of sufficient accuracy or scale
38 that a reasonable person can determine if the subject real property
39 is included in a natural hazard area, the transferor or transferor's
40 agent shall mark "Yes" on the Natural Hazard Disclosure

Statement. The transferor or transferor's agent may mark "No" on the Natural Hazard Disclosure Statement if he or she attaches a report prepared pursuant to subdivision (c) of Section 1103.4 that verifies the property is not in the hazard zone. Nothing in this subdivision is intended to limit or abridge any existing duty of the transferor or the transferor's agents to exercise reasonable care in making a determination under this subdivision.

(c) If the Federal Emergency Management Agency has issued a Letter of Map Revision confirming that a property is no longer within a special flood hazard area, then the transferor or transferor's agent may mark "No" on the Natural Hazard Disclosure Statement, even if the map has not yet been updated. The transferor or transferor's agent shall attach a copy of the Letter of Map Revision to the disclosure statement.

(d) If the Federal Emergency Management Agency has issued a Letter of Map Revision confirming that a property is within a special flood hazard area and the location of the letter has been posted pursuant to subdivision (g) of Section 8589.3 of the Government Code, then the transferor or transferor's agent shall mark "Yes" on the Natural Hazard Disclosure Statement, even if the map has not yet been updated. The transferor or transferor's agent shall attach a copy of the Letter of Map Revision to the disclosure statement.

(e) The disclosure required pursuant to this article may be provided by the transferor and the transferor's agent in the Local Option Real Estate Disclosure Statement described in Section 1102.6a, provided that the Local Option Real Estate Disclosure Statement includes substantially the same information and substantially the same warnings that are required by this section.

(f) The disclosure required by this article is only a disclosure between the transferor, the transferor's agents, and the transferee, and shall not be used by any other party, including, but not limited to, insurance companies, lenders, or governmental agencies, for any purpose.

(g) In any transaction in which a transferor has accepted, prior to June 1, 1998, an offer to purchase, the transferor, or his or her agent, shall be deemed to have complied with the requirement of subdivision (a) if the transferor or agent delivers to the prospective transferee a statement that includes substantially the same

1 information and warning as the Natural Hazard Disclosure
2 Statement.

3 SEC. 3. Section 8589.4 of the Government Code is amended
4 to read:

5 8589.4. (a) A person who is acting as an agent for a transferor
6 of real property that is located within an area of potential flooding
7 shown on an inundation map ~~designated pursuant to Section~~
8 ~~8589.5~~, or the transferor if he or she is acting without an agent,
9 shall disclose to any prospective transferee the fact that the
10 property is located within an area of potential flooding.

11 (b) Disclosure is required pursuant to this section only when
12 one of the following conditions is met:

13 (1) The transferor, or the transferor's agent, has actual
14 knowledge that the property is within an inundation area.

15 (2) The local jurisdiction has compiled a list, by parcel, of
16 properties that are within the inundation area and a notice has been
17 posted at the offices of the county recorder, county assessor, and
18 county planning agency that identifies the location of the parcel
19 list.

20 (c) In all transactions that are subject to Section 1103 of the
21 Civil Code, the disclosure required by subdivision (a) of this
22 section shall be provided by either of the following means:

23 (1) The Local Option Real Estate Disclosure Statement as
24 provided in Section 1102.6a of the Civil Code.

25 (2) The Natural Hazard Disclosure Statement as provided in
26 Section 1103.2 of the Civil Code.

27 (d) For purposes of the disclosure required by this section, the
28 following persons shall not be deemed agents of the transferor:

29 (1) Persons specified in Section 1103.11 of the Civil Code.

30 (2) Persons acting under a power of sale regulated by Section
31 2924 of the Civil Code.

32 (e) Section 1103.13 of the Civil Code shall apply to this section.

33 (f) The specification of items for disclosure in this section does
34 not limit or abridge any obligation for disclosure created by any
35 other provision of law or that may exist in order to avoid fraud,
36 misrepresentation, or deceit in the transfer transaction.

37 SEC. 4. Section 8589.5 of the Government Code is repealed.

38 ~~8589.5. (a) Inundation maps showing the areas of potential~~
39 ~~flooding in the event of sudden or total failure of any dam, the~~
40 ~~partial or total failure of which the Office of Emergency Services~~

1 determines, after consultation with the Department of Water
2 Resources, would result in death or personal injury, shall be
3 prepared and submitted as provided in this subdivision within six
4 months after the effective date of this section, unless the time for
5 submission of those maps is extended for reasonable cause by the
6 Office of Emergency Services. The local governmental
7 organization, utility, or other owner of any dam so designated shall
8 submit to the Office of Emergency Services one map that shall
9 delineate potential flood zones that could result in the event of dam
10 failure when the reservoir is at full capacity, or if the local
11 governmental organization, utility, or other owner of any dam
12 shall determine it to be desirable, he or she shall submit three maps
13 that shall delineate potential flood zones that could result in the
14 event of dam failure when the reservoir is at full capacity, at
15 median storage level, and at normally low storage level. After
16 submission of copies of the map or maps, the Office of Emergency
17 Services shall review the map or maps, and shall return any map
18 or maps that do not meet the requirements of this subdivision,
19 together with recommendations relative to conforming to the
20 requirements. Maps rejected by the Office of Emergency Services
21 shall be revised to conform to those recommendations and
22 resubmitted. The Office of Emergency Services shall keep on file
23 those maps that conform to the provisions of this subdivision.
24 Maps approved pursuant to this subdivision shall also be kept on
25 file with the Department of Water Resources. The owner of a dam
26 shall submit final copies of those maps to the Office of Emergency
27 Services that shall immediately submit identical copies to the
28 appropriate public safety agency of any city, county, or city and
29 county likely to be affected.

30 (b) Based upon a review of inundation maps submitted
31 pursuant to subdivision (a) or based upon information gained by
32 an onsite inspection and consultation with the affected local
33 jurisdiction when the requirement for an inundation map is waived
34 pursuant to subdivision (d), the Office of Emergency Services
35 shall designate areas within which death or personal injury would,
36 in its determination, result from the partial or total failure of a dam.
37 The appropriate public safety agencies of any city, county, or city
38 and county, the territory of which includes any of those areas, shall
39 adopt emergency procedures for the evacuation and control of
40 populated areas below those dams. The Office of Emergency

~~Services shall review the procedures to determine whether adequate public safety measures exist for the evacuation and control of populated areas below the dams, and shall make recommendations with regard to the adequacy of those procedures to the concerned public safety agency. In conducting the review, the Office of Emergency Services shall consult with appropriate state and local agencies.~~

~~Emergency procedures specified in this subdivision shall conform to local needs, and may be required to include any of the following elements or any other appropriate element, in the discretion of the Office of Emergency Services: (1) delineation of the area to be evacuated; (2) routes to be used; (3) traffic control measures; (4) shelters to be activated for the care of the evacuees; (5) methods for the movement of people without their own transportation; (6) identification of particular areas or facilities in the flood zones that will not require evacuation because of their location on high ground or similar circumstances; (7) identification and development of special procedures for the evacuation and care of people from unique institutions; (8) procedures for the perimeter and interior security of the area, including such things as passes, identification requirements, and antilooting patrols; (9) procedures for the lifting of the evacuation and reentry of the area; and (10) details of which organizations are responsible for these functions and the material and personnel resources required. It is the intent of the Legislature to encourage each agency that prepares emergency procedures to establish a procedure for their review every two years.~~

~~(c) “Dam,” as used in this section, has the same meaning as specified in Sections 6002, 6003, and 6004 of the Water Code.~~

~~(d) Under certain exceptional conditions as follows, the Office of Emergency Services may waive the requirement for an inundation map:~~

~~(1) Where the effects of potential inundation in terms of death or personal injury, as determined through onsite inspection by the Office of Emergency Services in consultation with the affected local jurisdictions, can be ascertained without an inundation map; and~~

~~(2) Where adequate evacuation procedures can be developed without benefit of an inundation map.~~

~~(e) If development should occur in any exempted area after a waiver has been granted, the local jurisdiction shall notify the Office of Emergency Services of that development. All waivers shall be reevaluated every two years by the Office of Emergency Services.~~

~~(f) A notice shall be posted at the offices of the county recorder, county assessor, and county planning agency that identifies the location of the map, and of any information received by the county subsequent to the receipt of the map regarding changes to inundation areas within the county.~~

SEC. 5. Section 13601 of the Penal Code is amended to read:

13601. (a) The CPOST shall develop, approve, and monitor standards for the selection and training of state correctional peace officer apprentices. Any standard for selection established under this subdivision shall be subject to approval by the State Personnel Board. Using the psychological and screening standards established by the State Personnel Board, the State Personnel Board or the Department of the Youth Authority shall ensure that, prior to training, each applicant who has otherwise qualified in all physical and other testing requirements to be a peace officer in either a youth or adult correctional facility, is determined to be free from emotional or mental conditions that might adversely affect the exercise of his or her duties and powers as a peace officer.

(b) The CPOST may approve standards for a course in the carrying and use of firearms for correctional peace officers that is different from that prescribed pursuant to Section 832. The standards shall take into consideration the different circumstances presented within the institutional setting from that presented to other law enforcement agencies outside the correctional setting.

(c) Notwithstanding Section 3078 of the Labor Code, the length of the probationary period for correctional peace officer apprentices shall be determined by the CPOST subject to approval by the State Personnel Board, pursuant to Section 19170 of the Government Code.

(d) The CPOST shall develop, approve, and monitor standards for advanced rank-and-file and supervisory state correctional peace officer and training programs *for the Department of Corrections*. When a correctional peace officer is promoted *within the Department of Corrections*, he or she shall be provided with and be required to complete these secondary training experiences.

(e) The CPOST shall develop, approve, and monitor standards for the training of state correctional peace officers *in the Department of Corrections* in the handling of stress associated with their duties.

(f) Toward the accomplishment of the objectives of this act, the CPOST may confer with, and may avail itself of the assistance and recommendations of, other state and local agencies, boards, or commissions.

(g) Notwithstanding the authority of the CPOST, the departments shall design and deliver training programs, shall conduct validation studies, and shall provide program support. The CPOST shall monitor program compliance by the departments.

(h) The CPOST may disapprove any training courses created by the departments pursuant to the standards developed by the commission if it determines that the courses do not meet the prescribed standards.

(i) The CPOST shall annually submit an estimate of costs to conduct those inquiries and audits as may be necessary to determine whether the departments and each of their institutions and parole regions are adhering to the standards developed by CPOST, and shall conduct such inquiries and audits consistent with the annual Budget Act.

(j) The CPOST shall establish and implement procedures for reviewing and issuing decisions concerning complaints or recommendations from interested parties regarding CPOST rules, regulations, standards, or decisions.

SEC. 6. Section 13602 of the Penal Code is amended to read:

13602. (a) The Department of Corrections shall use the training academy at Galt. This academy shall be known as the Richard A. McGee Academy. The Department of the Youth Authority shall use the training center at Stockton. The training divisions, in using the funds, shall endeavor to minimize costs of administration so that a maximum amount of the funds will be used for providing training and support to correctional peace officers while being trained by the departments.

(b) Each new cadet who attends an academy ~~after July 1, 2001,~~ shall complete the course of training, pursuant to standards approved by CPOST before he or she may be assigned to a post or job as a peace officer. ~~After July 1, 2001, every~~ Every newly

1 appointed first-line or second-line supervisor *in the Department*
2 *of Corrections* shall complete the course of training, pursuant to
3 standards approved by CPOST for that position. ~~Every~~

4 (c) *The Department of Corrections and the Department of the*
5 *Youth Authority shall make every effort* ~~shall be made~~ to provide
6 training prior to commencement of supervisorial duties. If this
7 training is not completed within six months of appointment to that
8 position, any first-line or second-line supervisor shall not perform
9 supervisory duties until the training is completed.

10 SEC. 7. This act is an urgency statute necessary for the
11 immediate preservation of the public peace, health, or safety
12 within the meaning of Article IV of the Constitution and shall go
13 into immediate effect. The facts constituting the necessity are:

14 In order to make necessary statutory changes to address funding
15 changes to corrections programs to be made by the Budget Act, it
16 is necessary that this act take effect immediately.

17 _____
18 CORRECTIONS

19 Title — Lines 1 and 3.
20 _____
21

